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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

BARBARA HERPOLSHEIMER, as Special  
Administratrix to the Estate of BERT WEAVER,  
  
Plaintiff,

vs.

MARQUIS COMPANIES I, INC., a Foreign  
Corporation, dba MARQUIS PLAZA REGENCY  
and/or MARQUIS PLAZA REGENCY POST  
ACUTE REHAB and/or MARQUIS CARE AT  
PLAZA REGENCY; DIRECT SUPPLY, INC., a  
Foreign Corporation; INVACARE  
CORPORATION, a Foreign Corporation; ROE  
RETAILER; DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

MARQUIS COMPANIES I, INC., a Foreign  
Corporation, dba MARQUIS PLAZA REGENCY,

Cross-Claimant,

vs.

INVACARE CORPORATION, a Foreign  
Corporation,

Cross-Defendant.

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Case No.: 2:21-cv-00659-RFB-EJY

**STIPULATION AND ~~PROPOSED~~**  
**ORDER TO EXTEND DISCOVERY**  
**DEADLINE FOR LIMITED PURPOSE**  
**OF CONDUCTING THE DEPOSITION**  
**OF DEFENDANT MARQUIS**  
**COMPANIES I, INC.'S FRCP 30(b)(6)**  
**WITNESS(ES) AND TO**  
**CORRESPONDINGLY EXTEND**  
**REMAINING CASE DEADLINES**  
***(SECOND REQUEST)***

Plaintiff, BARBARA HERPOLSHEIMER, as Special Administratrix to the Estate of BERT WEAVER (hereinafter "Plaintiff"), Defendant, MARQUIS COMPANIES I, INC. (hereinafter "Marquis"), Defendant, INVACARE CORPORATION (hereinafter "Invacare"), and Defendant, DIRECT SUPPLY, INC. (hereinafter "Direct Supply"), by and through their respective counsel of record, hereby stipulate to a limited amendment of the current Scheduling Order (ECF No. 52) to permit the parties to complete certain depositions within thirty (30) days from the current limited discovery deadline. The parties also request an extension of the current deadline to file dispositive motions.

**DISCOVERY COMPLETED TO DATE**

- The parties conducted the FRCP 26(f) conference on June 25, 2021;
- The parties have each served their FRCP 26(a) initial disclosures and continue to supplement the same;
- The parties have propounded and responded to written discovery, including requests for production, requests for admission, and interrogatories;
- The parties have propounded and disclosed third-party discovery obtained through FRCP 45 subpoenas;
- The parties conducted an inspection of the subject Hoyer lift on November 11, 2021;
- The deposition of Mark Rosen, M.D. was conducted on December 7, 2021;
- The deposition of Christopher Choi, M.D. was conducted on January 5, 2022;
- The deposition of David Connolly was conducted on March 7, 2022;
- The deposition of Claudia Cortes was conducted on March 16, 2022;
- The deposition of Brenda Gutierrez was conducted on March 16, 2022;
- The deposition of Augustine Ackom was conducted on March 31, 2022;

- 1 • Plaintiff served her product liability expert disclosures on June 3, 2022; and
- 2 • The parties filed a proposed discovery confidentiality order on June 15, 2022, which the Court
- 3 granted on June 16, 2022.
- 4 • Invacare and Direct Supply disclosed their initial expert disclosures on August 2, 2022.
- 5 • Plaintiff disclosed her non-product liability initial expert witness disclosures on August 2,
- 6 2022.
- 7 • Marquis disclosed its non-product liability initial expert witness disclosures on August 4,
- 8 2022.
- 9 • Invacare and Direct Supply disclosed their rebuttal expert disclosures on September 1, 2022.
- 10 • Marquis disclosed its rebuttal expert witness disclosures on September 1, 2022.
- 11 • The Deposition of Scott Wright, Ph.D. was conducted on September 26, 2022.
- 12 • The Deposition of Scott Ganaja was conducted on September 27, 2022.
- 13 • The Deposition of Cheramie Thompson was conducted on September 28, 2022.
- 14 • The Deposition of Bruce J. Hirschfeld, M.D. was conducted on September 29, 2022.
- 15 • The Deposition of Tracey Rodgers, R.N. was conducted on September 30, 2022.
- 16 • The Deposition of Invacare's FRCP 30(b)(6) witness was conducted on November 11, 2022.
- 17 • The Deposition of Eric Boelhouwer was conducted on December 9, 2022.
- 18 • The Deposition of Direct Supply's FRCP 30(b)(6) witness was conducted on December 16,
- 19 2022.
- 20 • The Deposition of Zheng K. Liu, M.D. was conducted on January 18, 2023.
- 21 • The Depositions of Marquis' FRCP 30(b)(6) designees Lisa Meyer, Sandra Connelly and
- 22 Courtney Gordon were conducted on January 27, 2023.

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**DISCOVERY TO BE COMPLETED PURSUANT TO LR 26-3(b)**

- The Depositions of Marquis' FRCP 30(b)(6) designees Patrick Plowman and David Connolly.

**REASONS FOR REQUESTED AMENDMENT PURSUANT TO LR 26-3(c)**

The depositions of Marquis FRCP 30(b)(6) designees Patrick Plowman and David Connolly were originally scheduled for January 26, 2023; however, due to a personal matter of counsel for Plaintiffs, the depositions had to be vacated and are currently being rescheduled.

Additionally, the parties have agreed to participate in a private mediation in an attempt to resolve this matter short of trial and are currently trying to secure the date of April 13, 2023 for the mediation.

Each party agrees, without waiving any objections, that there will be no prejudice to any party by this minor amendment of the schedule, and they agree it will enable additional time to permit achievable scheduling of the depositions of Mr. Plowman and Mr. Connolly. The parties have acted in good faith to request this extension and have no intent, nor reason, to delay the resolution of this matter.

**NEW DISCOVERY DEADLINES PURSUANT TO LR 26-3(d)**

- General Discovery cut-off: unchanged from the current deadline of September 30, 2022, per the Court's order (ECF No. 50).
- Deadline to complete the depositions of Marquis' FRCP 30(b)(6) designees Patrick Plowman and David Connolly: January 31, 2023 to March 2, 2023.
- Deadline to file dispositive motions: March 24, 2023 to July 31, 2023.
- Proposed Joint Pre-Trial Order: April 24, 2023 to August 31, 2023.

If this limited amendment is granted, the parties anticipate being able to conduct all additional discovery within the stipulated extended deadlines, and no additional depositions are

1 anticipated besides those identified above. This request for limited adjustment of discovery  
2 deadlines is made by the parties in good faith and not for the purpose of delay.

3 Dated this 1<sup>st</sup> day of February, 2023.

Dated this 1<sup>st</sup> day of February, 2023.

4 HENNESS & HAIGHT

BOWMAN AND BROOKE LLP

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6 */s/ Stephen J. Mendenhall, Esq.*

*/s/ Lauren L. Walter, Esq.*

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*SUPPLY, INC.*

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16 Dated this 1<sup>st</sup> day of February, 2023.

17 MESSNER REEVES LLP

18 */s/ Marjorie E. Kratsas, Esq.*

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23 *MARQUIS COMPANIES I, INC*

**IT IS SO ORDERED:**

24   
25 **UNITED STATES MAGISTRATE JUDGE**

26 **DATED:** February 1, 2023